

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
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 Plaintiff,)
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)
 v.) No. 4:22-CR-00297-SRC
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)
JOHN COLLINS-MUHAMMAD,)
)
)
 Defendant.)

**RESPONSE OF THE UNITED STATES OF AMERICA TO DEFENDANT'S
OBJECTIONS TO THE PRESENTENCE INVESTIGATION REPORT**

The United States of America, by and through its Attorneys, Sayler A. Fleming, United States Attorney for the Eastern District of Missouri, and Hal Goldsmith, Assistant United States Attorney for said District, submits this Response to Defendant's Objections to the Presentence Investigation Report (Doc. #86), and states to this Honorable Court as follows:

1. Defendant objects to the determination by the United States Probation Office (PSR at paragraph 144) that Defendant should make restitution to the United States, specifically to the Federal Bureau of Investigation, based upon the cash bribes and other things of value Defendant received as a result of his admitted bribery scheme.
2. It is the position of the United States that, instead of ordering Defendant to make restitution, this Court should include as part of Defendant's sentence a monetary fine, in addition to an appropriate term of imprisonment. Title 18, United States Code, Section 3571(d) provides that in a situation such as that which is presented here, where the Defendant has derived a pecuniary gain from the offense, a fine "not more than the greater of twice the gross gain..." may be imposed by the sentencing Court. Title 18, United States Code, Section 3572(a)(5) sets out as one factor to

be considered by this Court in levying a fine, “the need to deprive the defendant of illegally obtained gains from the offense.”

3. In the instant case, Defendant has admitted his involvement in the bribery scheme, and his illegal receipt of cash bribes and other things of value totaling approximately \$19,500. He simply doesn’t want to pay back the United States for the value of the bribes he received. Under the applicable United States Sentencing Guidelines, Defendant’s guideline range for a fine is \$15,000 to \$150,000, with the statutory maximum fine being \$250,000. (PSR at paragraphs 140 and 142). In all fairness, this Court should include a fine as part of Defendant’s sentence in order to require the Defendant to disgorge the proceeds of his illegal bribery scheme which he received. Pursuant to Title 18, United States, Code, Section 3571(d), this Court may consider a fine of up to twice the Defendant’s gross gain, or in the instant case, up to \$39,000, which is well within the applicable guideline range.

4. A similar approach was followed by the District Court in *United States v. Finley*, 783 F. Supp. 1123 (N.D. Ill. 1991). In that case, the District Court determined that restitution for government bribes paid to the Defendant was improper, but determined that a fine of twice the amount of the bribes Defendant accepted was appropriate. As that Court stated, “This amount was more than adequate to meet the government’s interest in securing compensation for the money it supplied in bribes and to render [Defendant’s] criminal acts monetarily profitless for him.” *Id.* at 1129-1130.

WHEREFORE, in order to specifically account for the bribes received by this Defendant related to his offenses, the United States respectfully requests that this Honorable Court include as part of its sentence, along with an appropriate term of imprisonment, a fine of not greater than \$39,000, or twice the gross gain by Defendant from his illegal bribery scheme.

Respectfully submitted,

SAYLER A. FLEMING
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2022, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

All Attorneys of Record.

/s/ Hal Goldsmith
HAL GOLDSMITH, #32984MO
Assistant United States Attorney